

**IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF WEST VIRGINIA**

**JOSEPH BRADDOCK,**

**Plaintiff,**

**v.**

**Civil Action No. 1:07cv45  
(Judge Keeley)**

**WARDEN ED WENSELL,**

**Defendant.**

**REPORT AND RECOMMENDATION**

The *pro se* Plaintiff initiated this case on March 29, 2007, by filing a civil rights complaint. On that same date, the clerk sent the Plaintiff a Notice of Deficient Pleading advising Plaintiff that he must either pay the \$350.00 filing fee or file an application to proceed without prepayment of fees and forms in support of that request. The required application and forms were sent to the Plaintiff with the notice which also advised Plaintiff that the failure to comply within 30 days would result in the dismissal of his case.

On May 8, 2007, the undersigned issued a Show Cause Order because the Plaintiff had failed to comply with the deficiency notice. The Plaintiff was given ten days to show cause why his case should not be dismissed. On May 17, 2007, the undersigned issued an Order granting the Plaintiff an additional ten (10) days to show cause why his case should not be dismissed.

A review of the file shows that as of the date of this Opinion, Plaintiff has not paid the filing fee, nor filed the requested forms, has not filed another motion to extend time to do so, or otherwise explained his reasons for noncompliance. Accordingly, it is the recommendation of the undersigned

that the instant case be DISMISSED without prejudice for the failure to prosecute unless the Court hears to the contrary within ten (10) days from the date of this Order. Any pleadings, motions, letters or other documents filed in response to this Report and Recommendation should be submitted to the Honorable Irene M. Keeley, United States District Judge. Failure to timely file objections to this recommendation will result in waiver of the right to appeal from a judgment of this Court based upon such recommendation. 28 U.S.C. § 636(b)(1); Thomas v. Arn, 474 U.S. 140 (1985); Wright v. Collins, 766 F.2d 841 (4th Cir. 1985); United States v. Schronce, 727 F.2d 91 (4th Cir. 1984), cert. denied, 467 U.S. 1208 (1984).

The Clerk is directed to mail a copy of this Report and Recommendation to the *pro se* plaintiff and counsel of record, as applicable.

DATED: June 8, 2007

/s/ James E. Seibert  
JAMES E. SEIBERT  
UNITED STATES MAGISTRATE JUDGE